

**REMARKS**

These remarks are in response to the Final Office Action mailed October 7, 2003. Claims 17-19, 20, 22-23, 27 and 30 have been amended. Support for the amendments can be found throughout the specification as filed. The amendments to claim 17 in the 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> provisos and the amendment to claim 30 were made for reasons of clarity and do not narrow the scope of Applicants' claimed invention. No new matter is believed to have been introduced. Furthermore, the amendments to the claims do not raise new issues requiring a further search as a search of (C<sub>1</sub>-C<sub>6</sub>) alkenyl and (C<sub>1</sub>-C<sub>6</sub>) alkynyl would have also identified (C<sub>2</sub>-C<sub>6</sub>) alkenyl and (C<sub>2</sub>-C<sub>6</sub>) alkynyl.

**I. REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

Claims 17-32 stand rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action indicates that the term "(C<sub>1</sub>-C<sub>6</sub>) alkenyl and (C<sub>1</sub>-C<sub>6</sub>) alkynyl" are unclear. Applicants have replaced the terms "(C<sub>1</sub>-C<sub>6</sub>) alkenyl and (C<sub>1</sub>-C<sub>6</sub>) alkynyl" with "(C<sub>2</sub>-C<sub>6</sub>) alkenyl and (C<sub>2</sub>-C<sub>6</sub>) alkynyl" in claims 17 to 32. In addition, Applicants have also replaced the terms "(C<sub>1</sub>-C<sub>3</sub>) alkenyl and (C<sub>1</sub>-C<sub>3</sub>) alkynyl" with "(C<sub>2</sub>-C<sub>3</sub>) alkenyl and (C<sub>2</sub>-C<sub>3</sub>) alkynyl". Applicants submit that the claims are clear and definite. Accordingly, Applicants respectfully request withdrawal of the rejection.

**II. REJECTION UNDER 35 U.S.C. §102(b)**

Claim 17 stands rejected under 35 U.S.C. §102(b) as allegedly anticipated by any one of:

1. Starnes et al., Chem Abstract 69: 43555;
2. Barili et al. Chem Abstract 107; 58774;
3. Rosnati et al., Chem Abstract 110: 153506;
4. Koelsch et al., Chem Abstract 55: 48596;
5. Manning et al., Chem Abstract 94: 102358;
6. Miller et al., Chem Abstract 74: 75859;
7. Hendrickson et al. Chem Abstract 110:113878.

Applicants respectfully traverse this rejection with respect to the pending claims.

In response to the rejection with regard to Starnes et al., the Examiner is directed to the 4<sup>th</sup> proviso of claim 17, which reads, "when - - - is single bond, and X is C, and R<sub>1</sub>, R<sub>2</sub>, R<sub>3</sub> and R<sub>4</sub> are H, and Y is absent, then (a) if m is 0, then n is not 0 and at least one of R<sub>5</sub> and R<sub>6</sub> is other than H; (b) if n is 0, then m is not 0 and at least one of R<sub>7</sub> is other than H; and (c) if m = 0 and n is 1, then R<sub>5</sub> and R<sub>6</sub> are not both -NH<sub>2</sub> (para) or -OH (para)". Applicants submit that Starnes et al. do not teach or suggest such a compound. Accordingly, the rejection of claim 17 as allegedly anticipated by Starnes et al. may be properly withdrawn.

In response to the rejection with regard to Barili et al., the Examiner's attention is directed to the fact that the 6<sup>th</sup> proviso of claim 17, "when - - - is single bond, and X is C, and R<sub>1</sub> and R<sub>2</sub> taken together are =O, and Y is CH<sub>2</sub>, and R<sub>3</sub> and R<sub>4</sub> are H, and m = 0, and n = 1, then R<sub>5</sub> and R<sub>6</sub> are not both -OH

(para)" is sufficient to exclude the compound disclosed by Barili et al. Furthermore, the compounds, when "Y is absent and  $R_4$  is methyl" are automatically excluded in light of the definition of the moiety " $R_4$ " (lacking the group "alkyl" in the list of groups).

In response to the rejection with regard to Rosnati et al. the Examiner is directed to the proviso, "when - - - is double bond, and X is C, and  $R_1$  is H, and  $R_2$ ,  $R_3$  and Y are absent, and  $R_5$ ,  $R_6$  and  $R_7$  are H or m and n are both 0, then  $R_4$  is not OR', wherein R' is H". Rosnati et al. do not teach or suggest such a compound. Accordingly, the rejection may be properly withdrawn.

In response to the rejection with regard to Koelsch et al., the 3<sup>rd</sup> proviso of claim 17 provides, "when - - - is single bond, and X is C, and  $R_1$  and  $R_2$  taken together are =O, and Y is absent, and  $R_3$  and  $R_4$  are H, and m = 0, and n = 1, then, (a) if  $R_5$  is H, then  $R_6$  is not Br (para), or OMe (para) or OH (para); (b) if  $R_6$  is H, then  $R_5$  is not Br (para), or OMe (para) or OH (para)". Applicants respectfully submit that Koelsch et al. do not teach or suggest the claimed compound. Accordingly, Applicants respectfully request withdrawal of the rejection.

In response to the Examiner's objection with regard to Manning et al., the 5<sup>th</sup> proviso reads, "when - - - is double bond, and X is C, and  $R_1$  and  $R_4$  are H, and  $R_2$ ,  $R_3$  and Y are absent, then a) if m is 0, then n is not 0 and at least one of  $R_5$  and  $R_6$  are other than H; b) if n is 0, then m is not 0 and at least one of  $R_7$  is other than H; (c) if m = 0, and n = 1, then

(i) if  $R_5$  is H, then  $R_6$  is not -OMe (para), or Br (para), or -CN (para); (ii) if  $R_6$  is H, then  $R_5$  is not -OMe (para), or Br (para), or -CN (para)". Applicants respectfully submit that Manning et al. do not teach or suggest the claimed compound. Accordingly, Applicants respectfully request withdrawal of the rejection.

In response to the rejection with regard to Miller et al., the Examiner is directed to the 1<sup>st</sup> proviso, which reads, "when - - - is single bond, and X is C, and  $R_1$  is -OH, and  $R_2$ ,  $R_3$  and  $R_4$  are H, and Y is absent, then (a) if m is 0, then n is not 0 and at least one of  $R_5$  and  $R_6$  are other than H; (b) if n is 0, then m is not 0 and at least one of  $R_7$  is other than H". Miller et al. do not teach or suggest such a compounds. Accordingly, the rejection may be properly withdrawn.

In response to the rejection with regard to Hendrickson et al., the Examiner is directed to the 2<sup>nd</sup> proviso, which reads, "when - - - is single bond, and X is C, and  $R_1$  and  $R_2$  taken together are =O, and Y is absent, and  $R_3$  and  $R_4$  are H, then (a) if m is 0, then n is not 0 and at least one of  $R_5$  and  $R_6$  are other than H; (b) if n is 0, then m is not 0 and at least one of  $R_7$  is other than H". Applicants respectfully submit that Hendrickson et al. do not teach or suggest Applicants' claimed compound. Accordingly, the rejection may be properly withdrawn.

Applicant : Carlo Brugnara et al.  
Serial No. : 10/043,640  
Filed : January 10, 2002  
Page : 30 of 30

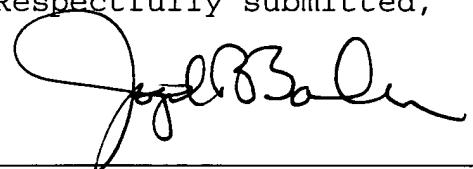
Attorney's Docket No.: 13691-002005 / 470-  
104US2CON

Please apply any other charges or credits to deposit  
account 06-1050.

Date: 1/7/04

Fish & Richardson P.C.  
PTO Customer No. 20985  
12390 El Camino Real  
San Diego, California 92130  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

Respectfully submitted,

  
Joseph R. Baker, Jr.

Reg. No. 40,900

10356390.doc